

IFW

Atty. Dkt. No. 024536-0135

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kenichi MACHIDA
Title: VARIABLE VALVE CONTROL APPARATUS
FOR INTERNAL COMBUSTION ENGINE
AND METHOD THEREOF
Appl. No.: 10/716,532
Filing Date: 11/20/2003
Examiner: John Kwon
Art Unit: 3747

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated March 9, 2005, Applicant hereby elects the claims of Group I, claims 1-5, 11 and 13-15, drawn to a variable valve control apparatus, for prosecution in the subject application.

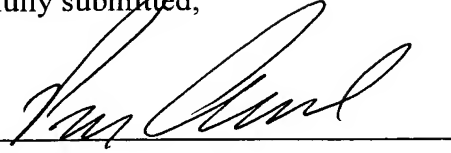
Applicant would like to assert that inventions I and III are related. Both inventions I and III are required to have the function of calculating an amount of gas passing through an intake valve, based on both an amount of predetermined times a spit-back gas amount at the time when said intake valve is opened and an amount of fresh air. Therefore, at least claims 16 and 17 should be examined as well.

Upon allowance of the elected claims, Applicant will be permitted to request rejoinder in accordance with MPEP 821.04 and *In re Ochiai*, 71 F.3d 1565 USPQ2d 1127 (Fed.Cir. 1995) of method claims 16-22 as appropriate.

Receipt of the initial Office Action on the merits is awaited.

Respectfully submitted,

By



Pavan K. Agarwal
Attorney for Applicant
Registration No. 40,888

Date: April 7, 2005

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 945-6162
Facsimile: (202) 672-5399